

REMARKS

The Office Action dated April 23, 2008, has been received and carefully noted. The above amendments and the following remarks are being submitted as a full and complete response thereto.

Claims 7 – 12 are rejected. Claims 7 – 12 are amended. Thus, Claims 7 – 12 are pending in this application. Support for the amendments may be found in the specification as originally filed, for example, in lines 4 – 17 on page 1 of the Specification. Applicants submit that no new matter is added. Applicants respectfully request reconsideration and withdrawal of the rejections.

Rejection Under 35 U.S.C. §102

Claims 8 and 9 are rejected under 35 U.S.C. §102(b) as being anticipated by Konig et al. (U.S. Patent No. 5,441,342, hereinafter “Konig ‘342”). To the extent that this rejection remains applicable to the claims currently pending, the Applicants traverse this rejection and respectfully submit that Claims 8 and 9 recite subject matter that is neither disclosed nor suggested by the cited references.

All of Claims 8 and 9 claim an automatic machine for making infusion packets comprising a dosing device for feeding an infusion product. Konig ‘342 only discloses “an apparatus for kneading portioned dough pieces” (col. 1, lines 5 -6). Consequently, Konig ‘342 cannot and does not anticipate the present invention as claimed.

Rejections Under 35 U.S.C. §103

Claims 7 and 10 – 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Konig et al. (U.S. Patent No. 5,441,342, hereinafter “Konig ‘342”) in view of Niemi (U.S. Patent No. 2,163,052, hereinafter “Niemi”), Debuit (U.S. Patent No.

2,788,450, hereinafter "Debuit"), and McClellan et al. (U.S. Patent No. 5,732,589, hereinafter "McClellan"). Applicants respectfully traverse this rejection. To the extent that the above-noted rejection remains applicable to the claims currently pending, the Applicants respectfully submit that Claims 7 and 10 – 12 recite subject matter that is neither disclosed nor suggested by the cited references.

As noted above, Konig '342 does not teach or suggest an automatic machine for making infusion packets comprising a dosing device for feeding an infusion product. None of Niemi, Debuit, or McClellan cure this deficiency.

Consequently, it is strongly contended that clear differences exist between the present invention as claimed in Claims 7 and 10 – 12 and the prior art relied upon. It is further contended that these differences are more than sufficient that the present invention as claimed would not have been rendered obvious to a person of ordinary skill in the art viewing those references.

Claims 8 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Romagnoli (U.S. Patent No. 4,870,808, hereinafter "Romagnoli") in view of Konig et al. (U.S. Patent No. 5,486,048, hereinafter "Konig '048"). Applicants respectfully traverse this rejection. Claims 7 and 10 – 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Romagnoli (U.S. Patent No. 4,870,808, hereinafter "Romagnoli") in view of Konig et al. (U.S. Patent No. 5,486,048, hereinafter "Konig '048") as applied to Claims 8 and 9 above, and further in view of Niemi (U.S. Patent No. 2,163,052, hereinafter "Niemi"), Debuit (U.S. Patent No. 2,788,450, hereinafter "Debuit"), and McClellan et al. (U.S. Patent No. 5,732,589, hereinafter "McClellan"). Applicants respectfully traverse these rejections. To the extent that these rejections remain

applicable to the claims currently pending, the Applicants respectfully submit that Claims 7 – 12 recite subject matter that is neither disclosed nor suggested by the cited references.

Applicants briefly summarize the invention by pointing out the differences/advantages over the most relevant prior art which is considered to be Romagnoli, in particular in view of the amendments to the claims. Romagnoli is acknowledged in the prior art portion of the present description.

Romagnoli discloses a continuously operating machine producing dual-use filter sachets for infusion products comprising a dosing apparatus with dosing pistons 34 directly (sideways) connected to a cam-following roller 35 (col. 5, lines 4-15). It has been experienced that jamming of the dosing pistons in the dosing apparatus disclosed by Romagnoli always occurs if infusion products with additives or herbs, like powdered sugar or flavouring substances, are used.

The Applicants have surprisingly discovered that jamming of the dosing piston can be effectively prevented by means of actuating cam means acting on each dosing piston as claimed in amended Claims 7 – 12. While such actuating cam means may appear substantially similar to that disclosed by König '048, there is nothing to suggest that it would have been obvious to the skilled man to combine the teaching of Romagnoli and the teaching of König at the time the invention was made.

In other words, the Applicants contend the fact that it would not have been obvious to one of ordinary skill in the art to modify Romagnoli's actuating cam means in such a way so as to include the actuating cam means disclosed by König, in order to

prevent the dosing pistons of Romagnoli from jamming, in case infusion products with additives or herbs are used.

In fact, with respect to the actuating cam means disclosed in Romagnoli, the crank means disclosed by Konig '342 appears more complex. In fact, while Romagnoli's actuating cam means comprises a cam-following roller 35 directly (sideways) connected to the dosing piston (col. 5, lines 4-15, and fig. 3), Konig discloses actuating cam means comprising a cam-following roller 109 bearingly supported for rotation on the one end of a swivel lever 110, the other end of which is rigidly mounted on a shaft 111. The shaft 111 further carries a swivel arm 113, the free end of which is hinged by a hinge member 114 to the inner end of the piston 43 (col. 10, lines 7-17). The tendency that a person of ordinary skill in the art would have is to seek a simpler solution when faced with a technical problem and not to add complexity and expense to the design process for an automated machine.

The Applicants traverse the following Examiner's statements that clearly show a posteriori reasoning:

- 1) On page 6, last 5 lines of the first Office Action mailed on December 5, 2006, the Examiner states that "Konig uses this crank mechanism 44 for the purpose of causing a radial movement of each piston 43 both inwardly and outwardly in the opening (col. 5, lines 15-19). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a crank mechanism as taught by Konig for the purpose of allowing radial movement of each piston in the rotary drum."
- 2) Moreover, on page 6, lines 1-4 of the second Office Action mailed on October 17, 2007, the Examiner states that "it would have been obvious to one of ordinary skill in the

art at the time of the invention to consider cam mechanism with cranks as taught by Konig for the purpose of properly dispensing infusion products."

3) Again, on page 5, lines 9-13 of the third Office Action mailed on April 23, 2008, the Examiner states that "Konig uses this crank mechanism 44 for the purpose of causing a radial movement of each piston 43 both inwardly and outwardly in the opening (col. 5, lines 15-19). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a crank mechanism as taught by Konig for the purpose of allowing radial movement of each piston in the rotary drum."

As there are not any purposive suggestion or hints either in Romagnoli or in Konig to modify Romagnoli's continuously operating machine in a more complicated way as disclosed by Konig, the more in order to overcoming jamming problems of the dosing piston when infusion products with additives or herbs, like powdered sugar or flavouring substances, are used, amended Claims 7 – 12 have to be considered inventive over the prior art.

As acknowledged in the Office Action, Konig '048 does not teach or suggest a second crank with a fork-shaped end having two parallel arms with a coaxial hole in each arm. Applicants submit that the same is not derivable from the features in Niemi, Debuit and McClellan, because these features do not use a coaxial position between the connecting rod and the second crank for the piston movement. In such prior art solutions the coaxial position is not necessary because the pistons are provided by specific and separate sealing means.

Consequently, it is strongly contended that clear differences exist between the present invention as claimed in Claims 7 – 12 and the prior art relied upon. It is further

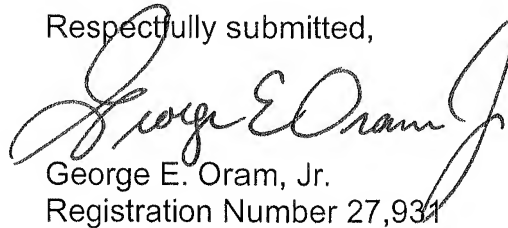
contended that these differences are more than sufficient that the present invention as claimed would not have been rendered obvious to a person of ordinary skill in the art viewing those references.

Conclusion

Applicants respectfully submit that this application is in condition for allowance and such action is earnestly solicited. If the Examiner believes that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below to schedule a personal or telephone interview to discuss any remaining issues.

In the event that this paper is not being timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account Number 01-2300, referencing Docket Number 023349-00316.

Respectfully submitted,



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